

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 1038 OF 2006

IN

CRIMINAL APPEAL NO. -- OF 2006

Hari Agencies

...Applicant
(Orig.Complainant)

V/s.

Shri R.S. Navale & Anr.

...Respondents

Mr.Sachin Shetye i/b. Mr.Amit Borkar for the Applicant.
Mr.Y.M. Nakhawa, APP for State.

CORAM : V.M. KANADE, J.

DATED : OCTOBER 8, 2007

P.C. :-

. The applicant is challenging the judgment and order passed by the Judicial Magistrate, First Class, Kolhapur, who by his judgment and order dated 23.1.2006 was pleased to acquit the accused for the offence punishable under Section 138 of the Negotiable Instruments Act.

2. In the present case, a complaint was filed by the applicant against the respondent under Section 138 of the Negotiable Instruments Act. The complaint was filed by the complainant on behalf of Hari Agencies of

which father of the complainant was the sole proprietor. The complainant was the Power of Attorney holder of the proprietor of the firm. The proprietor was not examined. The trial Court, therefore, held that the Power of Attorney holder could not depose facts which are not within his own knowledge and in the absence of any evidence being led by the proprietor i.e. the father of the complainant, no case was made out and on that ground, the complaint was dismissed. The trial Court has relied on the judgment of the Apex Court in the case of **Janki Vashdeo Bhojwani v/s. Indusind Bank Ltd., reported in AIR 2005 SC 429.**

3. In my view, the ratio of the said judgment applies to the facts of the present case. No case is made out for grant of leave. Leave is refused.

(V.M. KANADE, J.)